IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P.No.12187 of 2006

Date of Decision 1.11.2006

Sunil Kumar and others

...Petitioner

Versus

State of Haryana and others

...Respondents

Corum : HON'BLE MR.JUSTICE M.M.KUMAR
HON'BLE MR.JUSTICE M.M.S.BEDI

Present: Mr.B.K.Bagri, Advocate for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana,
for the State.

M.M.KUMAR, J.

Petitioner No.2 Anil Kumar had applied for appointment of the post of Multi Purpose Health Worker (Male) in response to advertisement dated 7.5.2006 (Annexure P-1) in the BC(A) category. The qualifications prescribed for the aforementioned post are Matric, knowledge of Hindi upto Matric standard and training course in respect of Multi Purpose Health Worker from an institution approved by the Haryana Government. The petitioner was declared ineligible for appointment on the aforementioned post on the ground that he has obtained diploma in respect of Multi Purpose Health Worker from Department of Health Service and Family Welfare Punjab. When the matter came up for motion hearing on 7.8.2006 while issuing notice of motion, we had issued interim directions to the respondents to permit the petitioner to appear for

interview. Accordingly, the petitioner has appeared for interview and on our directions his result has been produced before us in a sealed cover. The sealed cover has been opened by the Bench Secretary and has been placed before us, which shows that petitioner No.2 Anil Kumar has secured more marks in the B.C.(A) Category than the last candidate selected and appointed, who has secured 47.5 marks. The marks obtained by the petitioner are 48.63. It is appropriate to mention that on 20.9.2006, learned counsel for the petitioner has withdrawn the writ petition on behalf of petitioners 1 and 3 as the marks obtained by them were lower than the marks secured by the last candidate. Accordingly, writ petition has survived only in respect of petitioner No.2 Anil Kumar.

The only question needs to be determined by this Court is whether Multi Purpose Health Workers (Male) Certificate issued by the Chairman-cum-Director, Health Services, Family Welfare, Punjab could be ignored by the respondent-State merely on the ground that the same has not been obtained from an approved institution of the respondent-State as per the requirement of advertisement, which in turn is based on Haryana Health Department Multi Purpose Health Supervisors and Multipurpose Health Workers Group 'C' Service Rules, 1984 (for short "1984 Rules"). The petitioner has placed reliance on the instructions dated 18.3.1975 (Annexure P-3) as well as other policy instructions dated 2.11.1999 (Annexure P-18). The

latter instructions were issued by the respondent-State in pursuance to the directions given by this Court on 16.5.1997 in CWP No.16320 of 1996 (**Ram Bhagat etc.** v. **State of Haryana and others)**. This Court had directed the respondent-State to appoint a committee headed by Secretary to Govt. of Haryana, Education Department to go into equivalence and recognition of the examinations/degrees/diplomas/certificates and similar other qualifications awarded by the institutions other than universities established by law or the deemed universities. A detailed evaluation of examination / degree /diploma courses and syllable was to be considered according to the policy decision for issuance of recognition and equivalence. Accordingly, the respondent-State framed a policy as the aforementioned instructions dated 2.11.1999 laying down inter alia that while imparting recognition/equivalence to any examination for the State of Haryana for the purpose of admission/recruitment, the opinion of the State Universities, School Education Board or the Technical Education Board may be sought. The case of the petitioner is that the diploma acquire by him is 1-1/2 years and the diploma conferred by the respondent-State of Haryana through its approved institutions is also for a period of 1-1/2 years.

In the written statement filed by Director Health Services (Malaria), Haryana in the connected CWP No.12161 of 2006 which has also been adopted in the instant writ petition, it is asserted that the two

institutions from Government sector, namely, State Health and Family Welfare Centre, Rohtak and Multi Purpose Health Workers (Male) Training School, Sonepat have been approved. In the private sector six institutions, namely, Guru Teg Bahadur Education and Health Centre, Narwana (Jind), Rajindra Institute of Health Sciences, Sirsa, National Institute of Medical Sciences and Welfare Society, Fatehabad, Jai Bajrang Bali Multi Purpose Health Workers (M) Training Centre, Mohindergarh, Balaji Institute of Health and Medical Education, Bhiwani and Kailash Institute of Health and Medical Sciences, Panchkula have approved.

After hearing learned counsel for the parties, we are of the considered view that the instant petiton deserves to be allowed. The respondent-State has framed rules for regulating the recruitments and conditions of service of persons to be appointed to Haryana Health Department Multi Purpose Health Supervisors and Multi Purpose Health Workers Group 'C' Service. According to Rule 7, the qualification and experience for appointment to the post of Multi Purpose Health Workers (Male) have been specified in Appendix 'B'. Entry No.3 deals with the qualification which provides that a person is required to be matriculate and he must have knowledge of Hindi upto the matric standard. The other qualification prescribed is that such a person must have Multi Purpose Health Training Course from an institution approved by the Government. According to the instructions dated 18.3.1975 (Annexure P-3),

degrees and diplomas awarded by the Boards established by State Govt. ought to be ipso facto recognized. The instructions further provides that if any department of any State through certificate/diploma on the basis of an examination which makes him eligible for appointment to Haryana State then the concerned department is required to see the period of such qualification and its syllabus to compare with the certificate/diploma of the Haryana State. Once it is found that such a course/certificate deserves to be recognized then circulation to all the departments is required to be effected for further necessary action. The aforementioned position becomes evident from the reading of Clause IV of instructions dated 18.3.1975 (Annexure P-3). According to the instructions issued on 2.11.1999 (Annexure P-18), it is stipulated by the concluding para of the instructions that while imparting recognition/examination for the respondents State of Haryana for the purposes of recruitment etc. the opinion of the State Universities or School Education Board or the Technical Education Board as the case may be must be sought. A perusal of the written statement filed by respondent Nos.1 and 2 as well as short reply filed by respondent No.3 does not show that certified course obtained by the petitioner from the department of Health Service Family Welfare Punjab does not fulfill the requirement of equivalence or that it was ever subjected to any such scrutiny by the respondent. The copies of the certificate passed by

the petitioner have been placed on record as Annexures P4 & P-5 alongwith detailed marks card Annexure P-6. These instructions were issued by the respondent-State on the direction issued by Division Bench of this Court in case of **Ram Bhagat etc.** v.**State of Haryana and othes** (CWP No.16320 of 1996 decided on 16.7.2006, Annexure P-16). The impugned order passed by respondent No.3 i.e. Haryana State of Selection Commission rejecting the eligibility of the petitioner merely on the basis that certificate has been obtained by him from the department of Health Services Family Welfare, Punjab which is not issued by an approved institute. Such a decision is wholly without application of mind and has to be regarded as arbitrary. It cannot be sustained on the touch stone of Articles 14 and 16(1) of the Constitution. The certificate has been issued by a department of Punjab Govt. which according to instructions dated 18.3.1975 (P-3) has to be regarded as recognized. It is appropriate to refer to Clause 2 of the instructions which reads as under:-

> "Degree and diplomas etc. awarded by recognized Universities and High/Higher Secondary boards established by State Governments will be ipso facto recognized."

According to the aforementioned Clause, a diploma awarded by the University/High/Higher Secondary Board established by State Govt. is to be ipso facto recognized. The diploma issued in the instant case is

not only recognized but has been issued by the department of Health Services and Family Welfare, Punjab. Such a certificate, on the spirit of the aforementioned instructions cannot be brushed aside. Moreover, respondent No.3 was not competent to take a decision as to whether such a diploma/certificate has been issued by an approved institute or not. Even effort has not been made to get the diploma/certificate evaluated from any of the institution as per instructions issued. However, on examination of the material placed on record, we have found that the diploma recognized by the respondent-State is of one and half year duration and its syllabus, contents are also similar. Therefore, we are of the view that the writ petiton deserves to be allowed.

In view of the above, order dated 16.7.2006 (Annexure P-16) declaring the petitioner No.2 as ineligible is quashed. The writ petition is allowed and the respondents are directed to issue appointment letter to the petitioner No.2 for the post of Multi Purpose Health Worker (Male). The needful shall be done within a period of two months from the date a certified copy of this order is produced before the respondents.

The sealed envelop, which was opened on our directions has been resealed by the Bench Secretary and has accordingly been handed over to the learned State Counsel.

(**M.M.KUMAR**)

JUDGE

November 1,2006 (**M.M.S.BEDI**)

TSM/sd **JUDGE**